

*Explain the legitimate reasons for the structure of the Trusts:*

- Earnings by KML were distributed as dividends to KML's shareholders (formerly the Trusts, latterly the Holding Companies).
- Trusts are recognised in many common-law countries as a legitimate and practical method of property ownership. Trusts are also recognised by the Hague Convention on the Law Applicable to Trusts and on their Recognition dated 1 July 1985. The Principality of Monaco acceded to this Convention on 1 June 2007.
- The shareholders of KML (being the Holding Companies) were established as part of a legitimate restructuring exercise carried out in connection with the Trusts in March 2008. This restructuring was designed to promote tax efficiency for Carlo Grosso and Federico Ceretti (two UK-resident non-domiciliaries) within the scope of the existing UK tax legislation and in the light of proposed changes to that legislation.
- The purpose of the Trusts is (i) to hold shares in KML; and (ii) to invest their assets. As a consequence of the restructuring, the shares in KML are now held by the Holding Companies while the investment of the Trusts' assets is carried out by the Investment Companies.

149. *Demonstrate that the entities and individuals referred to in the SICCFIN Report are innocent of any wrongdoing and have themselves fallen victim to the alleged unlawful activities of Madoff:*

- To the best of my knowledge, information and belief, at no time throughout the relevant period was anyone involved in the Kingate Funds, KML, FIM, the FIM Group, the Trusts or the Trusts' subsidiary companies aware of the alleged fraudulent activities of BMIS.
- The business relationship between the Kingate Funds and KML, and between KML and its delegates is fully documented and has at all times been fully disclosed, including to potential investors in the Kingate Funds.
- The Trusts have suffered as a consequence of BMIS's alleged fraudulent activities, due to their substantial investments in the Kingate Funds which in total exceeded US\$40 million (at cost). One such investment was made by El Prela Trading Investments Limited only 5 weeks before the arrest of Mr Madoff.

150. *Explain the reasons for the Payment Instructions:*

- The Payment Instructions were intended to transfer funds between (and not away from) accounts of the two Trusts.
- At the time the Payment Instructions were made, the Trustees perceived that the Trusts' assets were over-reliant on the fortunes of HSBC given: (i) the on-going banking crisis; (ii) the concern as to the economic health of HSBC; and (iii) the perception that many banks had an exposure to the Madoff affair, as illustrated by the many current civil actions against such institutions relating to the Madoff affair.
- The Payment Instructions were therefore made as part of a legitimate (and prudent) portfolio management exercise. There was no motivation to remove assets from the Principality of Monaco; the transfers were to banks outside that

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jurisdiction simply because the Trusts held no other existing banking relationships in Monaco besides that with HSBC Monaco.

151. For all these reasons, I respectfully submit that the Freezing Order should be discharged.

152. I believe the facts stated in this Witness Statement are true.

Signed:



ANDREW WITTS

Date:

2nd March 2009